

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of Gregory Starwood, d/b/a
Starwood Construction

FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

The entitled matter came on for a prehearing conference before Administrative Law Judge George A. Beck commencing at 1:30 p.m. on March 11, 2004, at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota.

Francis Green, III, Assistant Attorney General, 900 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce ("Department"). Respondent did not appear at the prehearing conference.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Kevin Murphy, Deputy Commissioner, Minnesota Dept. of Commerce, 85 Seventh Place E., Suite 500, St. Paul, MN 55101 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUE

The issue in this case is whether or not Respondent's license should be suspended and/or revoked in accordance with Minn. Stat. §§ 326.91 and 45.027.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On January 21, 2004, an Amended Notice of and Order for Prehearing Conference in this matter was mailed to Respondent, via first class mail at his last known address, 1214 Conway Avenue, St. Paul, MN 55106.

2. The Notice of and Order for Hearing mailed to Respondent contained the following statement:

The Respondent's failure to appear at the prehearing conference may result in a finding that Respondent is in default, that the Department's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.

3. Respondent did not appear at the March 11, 2004 prehearing conference, made no request for a continuance, although he did file a Notice of Appearance.

4. The allegations of the Notice of and Order for Hearing are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Commissioner of Commerce and the Administrative Law Judge have jurisdiction pursuant to Minn. Stat. §§ 45.027, 326.91 and 14.50.

2. Respondent was given timely and proper notice of the prehearing conference in this matter.

3. The Department has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000, the allegations and the issues set out in the Notice of and Order for Prehearing Conference may be taken as true or deemed proved when a party defaults.

5. The Respondent is in default due to its failure to appear at the prehearing conference.

6. Based upon the facts set out in the Notice of and Order for Prehearing Conference, Respondent has violated Minn. Stat. §§ 45.027 and 326.91, subd. 1(4).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: That disciplinary action be taken against Respondent.

Dated this 16th day of March 2004.

/s/ George A. Beck

GEORGE A. BECK

Administrative Law Judge

Reported: Default

NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.